IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.1467 OF 2004

M/s. Ram Laxman Hotels Ltd. & Others ..Petitioners.
Vs.
M/s. Indusind Bank Ltd. & Others ..Respondents.

....

Mr. Aniket Rane i/b Mr. Rajeev Matkar for the Petitioner.
Ms. Vandana Jaisingh for the Respondents.

....

CORAM: **SWATANTER KUMAR, C.J. &**
DR. D.Y. CHANDRACHUD, J.

22nd August, 2007.

P.C. :

1. We have heard the learned counsel appearing for the parties. The challenge in this Petition under Article 226 of the Constitution is to the order dated 27th May, 2003 passed by the Debts Recovery Appellate Tribunal, Mumbai. Vide this order the request of the Petitioner for further grant of time to comply with the conditions was not accepted and by noticing that the order dated 26th December, 2001 has not been complied with despite orders to that effect, the application being Mis. Application 414 of 2002 was dismissed. Aggrieved by that order, the Petitioner has filed the present writ petition.

2. At the very outset it may be noticed that by the order dated 10th December, 2001 the Appellate Tribunal had noticed that on 10th September, 2001 the Petitioner was directed to compensate Rs.1 Crore as against the grant of stay and it was clarified that if the amount was not deposited, the stay will stand vacated. As the amount was not deposited, the stay stood vacated. A request was made on behalf of the present writ petitioners that they have received a cheque of Rs. 2 Crores and will deposit the amount of Rs. 1 Crore within 15 days and therefore, the matter was adjourned and time was granted till 25th December, 2001. Despite grant of this opportunity, the Petitioner did not comply with the conditions and it was noticed in the order of the Tribunal dated 26th December, 2001 that the present situation is the creation of the Petitioner himself having defaulted in compliance with the conditions imposed by the Appellate Tribunal which we do not find in any way unreasonable. The Petitioner was declined the relief.

3. It may also be noticed at this stage that in the reply affidavit filed on behalf of the Respondent, in paragraph 7 it has

been stated that the entire amount of Rs.7,52,34,294/- has already been recovered and the entire claim stands satisfied. In view of this, we find no reason to interfere. The Writ Petition is dismissed leaving the parties to bear their own costs.

CHIEF JUSTICE

DR. D.Y. CHANDRACHUD, J.